



U.S. Department  
of Transportation  
Federal Highway  
Administration

1200 New Jersey Avenue, SE.  
Washington, DC 20590

JAN 7 2009

In Reply Refer To: HOTM-1

Mr. Rob Fellows  
Washington State Department of Transportation  
Urban Corridors Office  
201 South Jackson Street, Suite 200  
Seattle, WA 98104

RECEIVED  
JAN 14 2009  
WSDOT

Dear Mr. Fellows:

Thank you for submitting an Expression of Interest (EOI) to the U.S. Department of Transportation, Federal Highway Administration (FHWA) Tolling and Pricing Team. The EOI requests authority to toll all or part of I-90 in the Puget Sound metropolitan area between I-5 in the City of Seattle and SR 900 in the City of Issaquah (approximately 16 miles) as part of a regional strategy to manage congestion as well as to generate funding for the parallel SR 520 Bridge Replacement and HOV Project. The Tolling and Pricing Team has reviewed the EOI and considered the options to toll motor vehicles available under Federal law, consistent with the stated goals.

According to the EOI, Washington State Department of Transportation has not yet decided when or how to proceed with tolling of I-90. The three scenarios listed included (a) tolling the general purpose lanes; (b) tolling the express or HOV lanes (e.g., convert the HOV lanes to HOT lanes, or (c) a combination of both, including the option for drivers to pay an initial toll to enter the I-90 facility and then an additional toll to enter the express or HOV lanes. At this point, given the information in the EOI and depending on your approach, two programs can provide Federal authority to toll motor vehicles: the 23 U.S.C. 166 HOV Facilities or the Value Pricing Pilot (VPP) Program. The attached matrix titled *Options for Gaining Tolling Authority on I-90 in Washington State: Opportunities and Requirements* may assist you in evaluating your options.

If the State decides to create an HOT Lane in the I-90 corridor, you should use 23 U.S.C. 166, HOV Facilities. This program provides exceptions to the minimum vehicle occupancy requirements and allows States to create HOT lanes. Please note that requirements stated in 23 U.S.C. 166 apply to all Federally-funded HOV facilities, including new or converted HOT lanes. The Tolling and Pricing Team recommends that your agency work through the Federal Highway Administration Washington Division Office to seek authority to toll under 23 U.S.C. 166 HOV Facilities.

If the proposed tolling project is more comprehensive than the creation of HOT Lanes, the VPP used to Program could be used to toll new and/or existing lanes on some or all portions of the I-90 facility, even if no improvement is planned. The VPP Program requires the implementation of congestion management strategies. The Tolling and Pricing Team recommends that your agency work through the Federal Highway Administration Washington Division Office to seek authority to toll under the VPP Program.

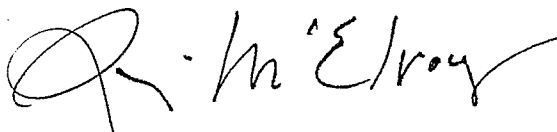
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The EOI also listed several questions regarding authority to toll I-90 as follows:

1. Under which of the federal tolling and pricing programs would this proposal qualify, and what are the restrictions, if any, associated with those programs? In general, the Tolling and Pricing Team recommends the VPP Program; however, as indicated in the letter, you may want to use the 23 U.S.C. 166 HOV Facilities if a HOT Lane is planned. Please refer to the attached *Tolling and Pricing Team Federal Tolling Programs-Decision Support Guidance* and/or *Options for Gaining Tolling Authority on I-90 in Washington State: Opportunities and Requirements* matrix.
2. What restrictions, if any, would FHWA impose on the use of revenue generated by tolling I-90? In general the restrictions require toll revenue to be used for debt service, the reasonable return on investments for a private party, and the operating and maintenance costs. Any revenues collected in excess of these purposes may be applied to other projects eligible for assistance under Title 23 United States Code. These restrictions vary slightly depending on the program used to gain tolling authority.
3. Would WSDOT be allowed to use the revenue to fund the SR 520 improvements? Only excess revenues can be used outside of the I-90 corridor. See page 4 of the attached *Tolling and Pricing Team Federal Tolling Programs-Decision Support Guidance*.
4. Would WSDOT be allowed to use the revenue to fund transit improvements or operations on either SR 520 or I-90? With respect to 23 U.S.C. 166 HOV Facilities, only excess toll revenues can be used to support transit capital costs. With respect to the VPP Program, revenues can be used to support necessary transit services operating costs, when transit is an integral part of the project, see page 4 of the attached *Tolling and Pricing Team Federal Tolling Programs-Decision Support Guidance*.
5. What are the specific steps required to receive authority to toll I-90? WSDOT must select an option and then request authority under the VPP Program or 23 U.S.C. 166 HOV Facilities program. Information on all of the Federal programs that provide authority to toll motor vehicles, is available on FHWA's Tolling and Pricing Opportunities website: [http://ops.fhwa.dot.gov/tolling\\_pricing/index.htm](http://ops.fhwa.dot.gov/tolling_pricing/index.htm)

The Department continues to be very supportive of your efforts and can provide any technical assistance necessary to help develop and advance this tolling project to meet the statutory and program requirements. If you have any specific questions or require additional information related to the Federal interests of requirements associated with tolling authority or a cooperative agreement, please feel free to contact the Washington State FHWA Division Office Administrator, Mr. Daniel M. Mathis at 360-753-9413. You may also contact the program managers for the VPP Program, Ms. Angela Jacobs at 202-366-0076 and for HOV Facilities program, Ms. Jessie Yung at 202-366-4672.

Sincerely,



Regina S. McElroy  
Director, Innovative Program Delivery

Attachments

# Options for Gaining Tolling Authority on I-90 in Washington State: Opportunities and Requirements

	HOV Facilities (HOT Lanes)	Value Pricing Pilot Program
Opportunities	<ul style="list-style-type: none"> <li>There is no limit on the number of projects that may participate</li> <li>Conversion of HOV lanes to HOT lanes or new HOT lanes on Interstate or non-interstate facilities are eligible</li> <li>There is no maximum time limit for the collection of tolls</li> <li>Regular Federal-aid highway funds (including IMV) can be used to fund conversion costs and improvements</li> <li>NEIA approval not required for conversion</li> </ul>	<ul style="list-style-type: none"> <li>Entire facility can be tolled - new and existing lanes - even if no improvement is planned</li> <li>New capacity can be added in conjunction with needed R&amp;R on the facility</li> <li>There is no maximum time limit for the collection of tolls</li> <li>Regular Federal-aid highway funds (including IMV) can be used to fund improvements</li> <li>Revenues can be used for project implementation (debt service, operations &amp; maintenance, and ROI) and Title 23 eligible purposes</li> <li>For FY 2007-2009, there is \$12 million per year available, with \$3 million set-aside for projects that do not involve highway tolls</li> </ul>
Requirements	<ul style="list-style-type: none"> <li>Electronic toll collection</li> <li>Vary toll to manage demand</li> <li>Annual certification</li> <li>Establish and manage a performance monitoring, evaluation, and reporting program and an enforcement program</li> <li>A toll agreement must be executed</li> <li>If facility is degraded, actions must be taken to bring the facility back into compliance</li> <li>Excess revenue can only be used for projects eligible under Title 23, giving priority to projects for developing alternatives to SOV travel and projects for improving safety</li> <li>There is no special Federal funding for this program</li> <li>Tolling is not permitted for motorcycles, bicycles, and vehicles meeting facility's established occupancy requirement</li> <li>Revenues must first be used for debt service, ROI on private financing, operation and maintenance costs (including 4R)</li> </ul>	<ul style="list-style-type: none"> <li>Toll rates are required to vary</li> <li>Must affect a sizeable number of vehicles and geographical area.</li> <li>All vehicles may be tolled</li> <li>Electronic tolling must be used</li> <li>Projects should rely mostly on application to existing facilities and will be implemented in less than 18 months</li> <li>Pre-implementation studies will be evaluated based upon the likelihood that they will lead to near-term implementation of broad value pricing</li> <li>There is 10-year reporting requirement</li> <li>Cooperative agreement must be executed establishing project features as well as toll revenue use requirements</li> </ul>



**Tolling and Pricing Team**  
Federal Tolling Programs-Decision Support Guidance

Issues/Federal Requirements	Value Pricing Pilot Program (Sec. 1012(b) of ISTEA, as amended)	HOV Facilities (Includes HOT Lanes) 23 U.S.C. 166	Express Lanes Demonstration Program (Sec. 1604(b) of SAFETEA-LU)	Interstate Rehab & Reconstruction (Sec. 1216(b) of TEA-21)	Interstate Construction Toll Pilot (Sec. 1604(c) of SAFETEA-LU)	23 U.S.C. Section 129 Section 129 Agreements
<b>Funding</b> (Discretionary funding for Feasibility, Pre-Implementation, and Evaluation)	\$12 mil for each of the FYs 2006-2009 (\$3 mil shall be available only for projects that do not involve highway tolls) <i>Projects may not be funded for a period longer than 3 years.</i>	None	None	None	None	None
<b>State Participation Restrictions</b>	Only 15 States may participate <i>14 currently participating: CA, CO, FL, GA, IL, MD, MN, NC, NJ, OR, PA, TX, VA, WA</i>	Unlimited participation	15 demonstration projects eligible in any state	3 facilities on the Interstate eligible Each facility must be located in a different state <i>2 facilities currently participating: VA, MO</i>	3 facilities on the Interstate eligible *Compact of states are eligible	Unlimited participation
<b>Deadlines for Participation</b>	Expressions of interest <i>August 1</i> each year for the subsequent fiscal year Formal application- <i>October 1</i> in the fiscal year where funds are requested	None	September 30, 2009	None	August 10, 2015	None



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Eligible Projects						
Tolling existing free interstate	Yes	Yes *Only HOV lane may be tolled	Yes *Only if additional tolled capacity is added and improvement is made to existing lanes	Yes	No	Yes Interstate-bridge or tunnel only
Conversion of HOV lanes to HOT lanes	No *Authority will be granted under 23 USC 166	Yes *Both Interstate and Non-Interstate facilities are eligible	No *Authority will be granted under 23 USC 166	Yes	No	No
Development of new HOT Lanes	No *Authority will be granted under 23 USC 166	Yes *Both Interstate and Non-Interstate facilities are eligible	No *Authority will be granted under 23 USC 166	No	No	No
Development of new toll Lanes (except HOT lanes)	Yes	No	Yes *May toll only new lanes	Yes	No	Yes Non-Interstate only
Tolling to Rehab and Reconstruct	Yes *Restrictions apply	Yes *Only HOV lane may be tolled	No	Yes *May toll entire facility Interstate only	No	Yes Interstate-bridge or tunnel only Non-Interstate eligible
Tolling to finance expansion of a highway	Yes *Restrictions apply	Yes *Only HOV lane may be tolled	Yes *Only new capacity may be tolled	Yes *May toll entire facility	No	Yes Interstate-bridge or tunnel only Non-Interstate eligible





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<b>Tolling Requirements</b>						
Ability to toll vehicles that do not meet the established occupancy requirements for the HOV lanes (if HOV occupancy set at 3+, can charge 2 occupants	Yes	Yes (except for motorcycles and bicycles)	Yes	Yes	Yes	Yes
Required use of non-cash electronic technology toll collections	No **However, NPRM will require it	Yes	Yes	No	No **However, NPRM will require it	No
Manage demand by varying toll	Yes	Yes	Yes	No	No	No
Required to limit or discontinue tolling program if facility is degraded	No	Yes	Yes	No	No	No
Toll agreement	Yes	Yes	Yes	Yes	Yes	Yes



Issues/Federal Requirements	Value Pricing Pilot Program (Sec. 10121(b) of ISTEA, as amended)	HOV Facilities (Includes HOT Lanes) 23 U.S.C. 166	Express Lanes Demonstration Program (Sec. 1604(b) of SAFETEA-LU)	Interstate Rehab & Reconstruction (Sec. 1216(b) of TEA-21)	Interstate Construction Toll Pilot (Sec. 1604(c) of SAFETEA-LU)	23 U.S.C. Section 129 Section 129 Agreements
Revenue Restrictions						
Use of toll revenue	Debt service, reasonable rate of return on investment, and maintenance and operations of toll facility Also, project implementation costs and mitigation measures for low income users	Debt service, reasonable return on investment, and maintenance and operations of toll facility	Debt service, reasonable return on investment, and maintenance and operations of toll facility. If state certifies project is adequately maintained and operated, may be used for any other purpose relating to a highway or transit purpose carried out under Title 23 or Title 49	Debt service, reasonable return on investment, and maintenance and operations of toll facility	Debt service, reasonable return on investment, and maintenance and operations of toll facility	Debt service, reasonable return on investment, and maintenance and operations of toll facility
Use of toll revenue for transit operating costs (non-Title 23)	Yes *Only as part of project	No	No	No	No	No
Use of excess toll revenue	Must be eligible under Title 23	Must be eligible under Title 23 - give priority to projects for developing alternatives to SOV travel and projects for improving safety	If state certifies project is adequately maintained and operated, may be used for any other purpose relating to a highway or transit purpose carried out under Title 23 or Title 49	No	No	Must be eligible under Title 23



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Other Restrictions						
Evaluation of value pricing aspects, including if appropriate, the effects on low income drivers	Yes	No	No	N/A	N/A	N/A
Requirement for state to enforce HOV violations	No	Yes	Yes	No	No	No
Requires states to establish a performance monitoring, evaluation and reporting program for HOV facility	No	Yes	Yes-Performance goals for each project required	No	No	No
Required to submit annual certification indicating meeting Federal requirements for HOT lanes	No	Yes	Yes	No	No	No
Non-Compete Agreement prohibited	No	No	No	No	Yes	No
Can the facility use IM funds?	Yes	Yes	Yes	No	No	Yes